



1 APPEARANCES: (Continued)

2 MS. EUNICE McCLAIN  
3 2611 West Lincoln  
4 Peoria, Illinois 61605

5 (Appearing pro se)

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1	<u>I N D E X</u>				
2	<u>WITNESSES</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
3	None .				
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9	<u>I N D E X</u>				
10	<u>EXHIBITS</u>	<u>MARKED</u>	<u>ADMITTED</u>		
11	None .				
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1 received the Complainant's direct testimony as well  
2 as Respondent's rebuttal testimony. We had set a  
3 date of April 3 to get Complainant's responsive  
4 testimony, although we did not receive anything.

5 Ms. McClain, when I gave you the  
6 call-in number yesterday, you indicated you did not  
7 file any type of responsive testimony; is that  
8 correct?

9 MS. McCLAIN: I told you I didn't understand  
10 what this was. So I didn't understand what this  
11 second thing that was sent to me, I don't understand  
12 what it is. In this paper he is just stating what he  
13 states is right. Then I sent in one stating what I  
14 thought was right.

15 JUDGE ALBERS: That is correct.

16 MS. McCLAIN: Okay. So I am supposed to send  
17 another one?

18 JUDGE ALBERS: Well, only if you want to.  
19 Typically how this works is that you, the  
20 Complainant, would file a position, would file a  
21 paper stating what you think happened and what you  
22 think the correct outcome should be. And then the

1     Company gets a chance to respond to that. And that's  
2     what they did with that paper dated March 27, 2007,  
3     from Gary Peevey.

4                     Now, as the Complainant you also get  
5     one more opportunity to respond to whatever the  
6     Company said. You don't have to do that, but you do  
7     have that opportunity.

8             MS. McCLAIN: Okay. By what date do I have to  
9     have this turned in?

10            JUDGE ALBERS: Well, that was April 3.

11            MS. McCLAIN: I just received it April 2.

12            JUDGE ALBERS: Okay. Well, that's -- I think  
13     we can work with you here.

14                     Mr. Fitzhenry, do you have any  
15     objection to giving the Complainant a few days to  
16     file some responsive testimony?

17            MR. FITZHENRY: No, I don't, Your Honor.

18            JUDGE ALBERS: Thank you. Ms. McClain, how  
19     much time would you like to put something together  
20     and mail it to us?

21            MS. McCLAIN: I can do it in less than two  
22     days.

1 JUDGE ALBERS: That's fine.

2 MS. McCLAIN: And have it mailed out.

3 JUDGE ALBERS: So how about we just try to have  
4 that by April 10. If you can mail that tomorrow, is  
5 that what you are saying? Mail it tomorrow or  
6 Saturday?

7 MS. McCLAIN: Well, it depends on if the lawyer  
8 is in the office. Because I am seeking counsel to do  
9 this because to answer this correctly. And I also  
10 have one more piece of evidence to send you, Judge.  
11 Because when they left here, when CILCO left here  
12 that day, they left I guess it is the seal. They  
13 left it outside in my yard. So I need to send you  
14 that also.

15 JUDGE ALBERS: I am not sure what you are  
16 referring to as a seal.

17 MS. McCLAIN: It is that black thing that goes  
18 around the meter. That's what they said was cut.

19 JUDGE ALBERS: Okay. Well --

20 MS. McCLAIN: They left it in my yard.

21 JUDGE ALBERS: Let me make this suggestion.  
22 Can you take a picture of it and send that and then

1     just bring the seal with you at the hearing?

2             MS. McCLAIN:    Okay.

3             JUDGE ALBERS:   Unless you have -- I mean, you  
4     have only got one of them.   And I imagine  
5     Mr. Fitzhenry --

6             MS. McCLAIN:    Yeah.   So in order to find out if  
7     the seal is broken or whatever, take a picture of it.

8             JUDGE ALBERS:   Well, just so we can have it.  
9     Unless Mr. Fitzhenry has a need to see it prior to  
10    the hearing, rather.

11            MS. McCLAIN:    Okay.

12            MR. FITZHENRY:   Well, actually, I do, Your  
13    Honor.   As noted in Mr. Peevey's testimony, we had  
14    sent to Ms. McClain questions that she has yet to  
15    answer.

16            MS. McCLAIN:    And that's what I sent here  
17    because the lawyer helped me draft it up.

18            MR. FITZHENRY:   I don't have that yet.

19            MS. McCLAIN:    The answer that I sent you, I  
20    sent you in the mail, that you said you didn't  
21    receive because according to this letter you said you  
22    didn't receive it.   And I don't understand what's



1     wrong with the mail that the Judge's office got  
2     theirs but you didn't get yours.

3             MR. FITZHENRY:   Judge, did you get answers to  
4     data requests?

5             JUDGE ALBERS:    No.

6             MS. McCLAIN:    Well, what was it that I sent?

7             JUDGE ALBERS:    You sent us --

8             MS. McCLAIN:    Along with my original copy.

9             JUDGE ALBERS:    You sent us the Complainant's  
10    response to answer.

11            MS. McCLAIN:    Yes.

12            JUDGE ALBERS:    We received it here March 13.

13            MS. McCLAIN:    Well, I sent two.   One -- I sent  
14    a copy and one is the original.

15            JUDGE ALBERS:    Well, and that's fine.   The  
16    clerk's office would -- well, actually, since it is  
17    testimony, the clerk's office didn't need the  
18    original.   They only need the originals for the  
19    complaint itself.

20            MS. McCLAIN:    Okay.   Because you told me that  
21    they couldn't file it because it was copies and to  
22    send the originals, and that's what I did and that's

1     why you have two of them.

2             JUDGE ALBERS:   Well, let's just back up a  
3     second.

4                     Can you send your surrebuttal  
5     testimony, what was due on the 3rd, can you send  
6     that --

7             MS. McCLAIN:    The what?

8             JUDGE ALBERS:   We will just call it the  
9     responsive testimony.   You are responding to  
10    Mr. Fitzhenry's testimony that's dated March 27.   You  
11    have that, correct?

12            MS. McCLAIN:    Mr. Fitzhenry.   The papers that I  
13    gave to the lawyer that we sent the answers to, you  
14    want answers to those questions?

15            JUDGE ALBERS:   Well, there is two different  
16    things going on here.   There is discovery which is a  
17    process whereby the Company can ask you questions and  
18    you can ask the Company questions.

19            MS. McCLAIN:    Yeah, but the questions that he  
20    asked me on that paper were specifically for me to  
21    answer in a manner that I looked guilty.   And that's  
22    what he is asking me to answer; right?

1 JUDGE ALBERS: Well, I don't get involved in  
2 discovery unless there is a dispute.

3 MS. McCLAIN: Okay, well --

4 JUDGE ALBERS: I don't know what he asked you.

5 MS. McCLAIN: He asked me was it tampered with.  
6 I don't know the answer to that. So should I just  
7 put down -- I don't know if it was tampered with or  
8 not because I don't do the service. So I don't know  
9 what they are talking about. He wants me to answer  
10 these questions and I should be able to ask them.  
11 How did I do it and what did I do it with. And why  
12 are they charging me. And if they thought I did it,  
13 why would they even ask me just to pay half the bill  
14 and not the whole bill, and still say that I am  
15 guilty of doing this. I am not guilty of doing this  
16 and I am not going to say that I am.

17 And I am on a fixed income. That's  
18 almost \$200 that they are going to take away from me  
19 and my funds to eat a month. We live off of \$649,  
20 period. And they want me to give them an extra \$200.  
21 Then they send me CILCO bill for January and it is  
22 \$415. The next bill was \$352. This bill was \$256.

1     How much more do they want from me? I cannot pay  
2     these people this money.

3             JUDGE ALBERS: Well, all I can say is the bills  
4     you received in January, February and March of this  
5     year are the result of rate increases that occurred  
6     after the rate freeze ended and everyone --

7             MS. McCLAIN: They want to spent this much time  
8     over getting \$189 from me. If they want to spend  
9     this much time, I am going to spend it, too. Because  
10    for \$189 my son can eat, and I am going to do it.

11            JUDGE ALBERS: It is your right to pursue this  
12    complaint. There is no guarantee as to how it is  
13    going to end.

14            MS. McCLAIN: I know that's right, but I am  
15    going to fight for that money any way because me and  
16    Korger has got a deal. I don't do what they do and  
17    they don't do what they do. But they want their  
18    money when I go up to get that baloney and everything  
19    else. So I am going to fight to get that baloney.

20            JUDGE ALBERS: Okay.

21            MR. FITZHENRY: Can I step in here for a  
22    minute, Judge?

1 JUDGE ALBERS: Certainly.

2 MR. FITZHENRY: Ms. McClain, if the Company  
3 would agree today to withdraw its claim for these  
4 dollars, would that satisfy you?

5 MS. McCLAIN: Yes, it would.

6 MR. FITZHENRY: Judge, I am willing to make  
7 that offer today on the record that the Company will  
8 not pursue from Ms. McClain...

9 MS. McCLAIN: Oh, thank you, Jesus.

10 MR. FITZHENRY: ..these sums of money.

11 Now, Ms. McClain, I want you to  
12 understand, we are doing this not because we don't  
13 think we are entitled to this money. But we are  
14 doing it because we want to try to be compromising,  
15 okay.

16 MS. McCLAIN: I thank you very much.

17 MR. FITZHENRY: And, Judge, if we can go on the  
18 record and if I can say that, if that would satisfy  
19 Ms. McClain, would that be an acceptable procedure  
20 for you?

21 JUDGE ALBERS: We are on the record now.

22 MR. FITZHENRY: Okay. So I am going to re-say

1     it again. The Company will not pursue these charges  
2     associated with meter tampering. Let me get the  
3     specific dollar amount so that there is no dispute  
4     about that. It is one hundred -- bear with me.

5             JUDGE ALBERS: That's fine.

6             MR. FITZHENRY: It is \$189.16. And what I will  
7     do is I will inform the customer service people to  
8     remove these dollar amounts from your bill.

9                     Now, just because it is an automated  
10    process, it might show up in your next bill. I don't  
11    want you to worry about it. If you have to call me,  
12    call me. But in time I will be sure that that  
13    \$189.16 is removed from your bill.

14            MS. McCLAIN: Fine. Thank you.

15            JUDGE ALBERS: I am sorry?

16            MS. McCLAIN: Thank you.

17            MR. FITZHENRY: We certainly didn't mean to  
18    cause you any trouble or hardship. That was not our  
19    intent.

20            MS. McCLAIN: I'm sorry. Oh, thank you, thank  
21    you very much.

22            MR. FITZHENRY: You are most welcome.

1 JUDGE ALBERS: Ms. McClain, would you like to  
2 take a minute or two?

3 MS. McCLAIN: I'm sorry.

4 JUDGE ALBERS: That's okay. We will just go  
5 off the record for a minute.

6 (Whereupon there was then had an  
7 off-the-record discussion.)

8 JUDGE ALBERS: We will go back on the record.

9 Ms. McClain, with that statement by  
10 Mr. Fitzhenry would you like to withdraw your  
11 complaint against the Company?

12 MS. McCLAIN: Yes, sir, I would. Thank you  
13 very much.

14 JUDGE ALBERS: Okay.

15 MR. FITZHENRY: Ms. McClain, I want you to take  
16 my phone number down. It is on the papers I sent  
17 you. But again, it may not happen for a bill cycle  
18 or two where the \$189.16 is removed. But if you see  
19 it like the second time, I definitely want you to  
20 call me. My telephone number is (314) 554-3533.

21 MS. McCLAIN: Yes, sir. And on the record I  
22 really appreciate it and I thank you very much and it

1 is a relief and I just thank you for your compassion.

2 MR. FITZHENRY: Well, like I said, we are  
3 trying to be as fair as we possibly can. So there is  
4 nothing else for you to do in the docket, no more  
5 filing testimony or responding to data requests asked  
6 of you. You don't need to send the judge a picture  
7 of the broken seal. The judge will, you know, file  
8 an order and that will be it.

9 JUDGE ALBERS: You will get some type of notice  
10 from the Commission indicating that this case has  
11 been dismissed, Ms. McClain, and there is no further  
12 action on your part needed.

13 MS. McCLAIN: Okay. Thank you very much. You  
14 have a wonderful day.

15 MR. FITZHENRY: I would like a copy of the  
16 transcript, please.

17 All right. Thank you, Judge.

18 JUDGE ALBERS: Thank you, both. With that I  
19 will mark the record heard and taken.

20 HEARD AND TAKEN

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